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LEO JOHN YALLUP

UNITED STATES DISTRICT COURT  
IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEO JOHN YALLUP,

Defendant

Case No. 1:23-CR-02016-JLR -1

DEFENDANT YALLUP'S  
SENTENCING MEMORANDUM

The Defendant, LEO JOHN YALLUP, by and through his attorneys, Carney & Marchi, hereby, submits this Sentencing Memorandum to aid the Court in the determination of a just and fair sentence in the above referenced cause of action. Counsel for the Defendant received the Pre-sentence Investigation Report on August 6, 2024. The defendant has no objections to the Report.

**I. FACTS**

On July 16, 2024, Mr. Yallup plead guilty to Count 1 of the superseding indictment charging him with Assault on a Federal Officer with a Deadly Weapon in violation of 18 U.S.C. §111(b). As part of the agreement with the government, the government will dismiss counts 2-7

1 at the time of sentencing. The government will recommend a sentence of 84 months. Mr. Yallup  
 2 may recommend a sentence within 63-78 months. Finally, the government agrees to recommend  
 3 that the sentence imposed on this matter will run concurrent to the pending supervised release  
 4 violation in Cause No. 1:15-CR-2031-JLR-1

5 United States Probation maintains that the Total Offense Level is 22 and the sentence range  
 6 is 63-78 months. Mr. Yallup is requesting a sentence of 63 months. He is also requesting that the  
 7 Court also recommend RDAP and not impose a fine. He would further request that he be given  
 8 credit for the time that he has been serving on this matter. Finally, he would request that he serve  
 9 his sentence at a BOP medical facility so that his medical needs can be addressed as a result of his  
 10 gunshot wound he received at the time of his arrest. He would request FMC, Rochester, Rochester  
 11 MN.

### 12 **III. ARGUMENT**

#### 13 **A. Guideline Range**

14 United States Probation calculates Mr. Yallup's Total Offense Level at 22. Thus, his  
 15 sentence range is 63-78 months. Mr. Yallup is requesting a sentence of 63 months or a sentence  
 16 that is reasonable. He is requesting that the sentence run concurrent with Cause No. 1:15-CR-  
 2031-JLR-1

#### 17 **B. Reasonable Sentence**

18 18 U.S.C. § 3553(a) lists the general purposes of sentencing and directs that the sentencing  
 19 courts "shall consider" certain factors when imposing sentence. Among the factors listed are "the  
 20 kinds of sentence and the sentencing range established" by the Guidelines. *United States v. Wilson*,  
 21 Case No. 2:03-CR-0082, 2005 WL 78552, at 1 (D. Utah Jan. 13, 2005).

22 These factors include: (1) the nature and circumstances of the offense and the history and  
 23 characteristics of the defendant; (2) the need for the sentence imposed; (3) the kinds of sentences  
 24 available; (4) the kinds of sentences and the sentencing range established by the Sentencing  
 25 Guidelines; (5) pertinent policy statements issued by the Sentencing Commission; (6) the need to  
 avoid unwarranted sentencing disparities among defendants who have similar criminal records and

1 have been found guilty of similar conduct; and (7) the need to provide restitution to victims. 18  
2 U.S.C. § 3553(a).

3 On June 28, 2024, Mr. Yallup pleaded guilty in this matter. As the Court is aware he also  
4 filed a motion to withdraw his guilty plea as he maintains that the government breached the plea  
5 agreement and coerced him. See ECF 102. The Court denied the request to withdraw the plea.  
6 See ECF 109.

7 On March 2, 2024, federal law enforcement agents were executing an arrest warrant for  
8 Mr. Yallup for an alleged supervised release violation. On that date, the officers arrived at 1161  
9 Donald Wapato Road in Yakima County. At the residence, they saw Mr. Yallup, and Mr. Yallup  
10 allegedly fled on foot. As officers chased him, the officers alleged that Mr. Yallup pointed a  
11 weapon at them. The officers, after seeing the weapon shot Mr. Yallup as he ran. He was struck  
12 in the back of the head by the officers. Officers secured Mr. Yallup and began first aide. Medical  
13 personnel were requested, and Mr. Yallup was transported to Yakima Valley Hospital with a life-  
14 threatening wound to the head. Given the severity of the head wound, Mr. Yallup was life flighted  
15 to Harborview Hospital in Seattle. He remained at Harborview, until he was discharged on or  
16 about March 13, 2024, and returned to Yakima County jail.

17 As a result of his injuries, Mr. Yallup has a very limited memory of what occurred on  
18 March 2, 2024. As a result of the injury, he is blind in the left eye; suffers anxiety and fear; suffers  
19 from seizures; has severe depression as well as PTSD; has severe headaches and suffers from  
20 memory loss. Mr. Yallup maintains that the jail staff have not addressed his medical needs and  
21 moved him to the medical floor in the jail due to his classification by the U.S. Marshalls as a  
22 violent offender. Mr. Yallup has severe medical issues that are not being addressed, thus, the  
23 request to be placed at a BOP medical facility.

24 Given his medical condition and the results of the gunshot wound to the head, a sentence  
25 of 63 months would be appropriate. Mr. Yallup will have to face these medical conditions for a  
long time and will need additional medical treatment to address his medical needs. A sentence of  
63 months is reasonable given the facts and characteristics of Mr. Yallup.

**IV. CONCLUSION**

For the reasons stated herein and based on the facts of this case at bar, it is respectfully requested that he be sentenced 63 months or any sentence the Court determines as reasonable. Mr. Yallup would further request that this sentence imposed run concurrent to the supervised release violation in Cause No. 1:15-CR-2031-JLR-1

Dated this 13<sup>th</sup> day of October 2024.

Respectfully submitted,  
*s/ Nicholas Marchi*  
Nicholas W. Marchi  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

I certify that a copy of the Defendant's Sentencing Memorandum was emailed via ECF or mailed first class; postage prepaid on 10/14/2024 to T. Swenson, Assistant United States Attorney, P.O. Box 1494, Spokane WA 99210 and to United States Probation, Yakima WA.

*S/Nicholas Marchi*  
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Attorneys for Defendant